

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FELIX GARCIA,

Plaintiff,

-against-

E. TORRES; K. LAMB,

Defendants.

22-CV-10852 (CS)

ORDER OF SERVICE

CATHY SEIBEL, United States District Judge:

Plaintiff, who is currently incarcerated at Five Points Correctional Facility, brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants, Sing Sing Corrections Officers E. Torres and K. Lamb, subjected him to excessive force on December 11, 2019. By order dated January 27, 2023, the Court granted Plaintiff's request to proceed *in forma pauperis* (IFP), that is, without prepayment of fees.¹

A. Order of Service

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed *in forma pauperis*. *See* 28 U.S.C. § 1915(b)(1).

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that summonses be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

To allow Plaintiff to effect service on Defendants Sing Sing Corrections Officers E. Torres and K. Lamb through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for these Defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the complaint is not served within 90 days after the date the summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

B. Local Rule 33.2

Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the Court’s website under “Forms” and are titled “[Plaintiff’s Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents.](#)” Within 120 days of service of the complaint, Defendants must serve responses to these standard discovery requests. In their responses, Defendants must quote each request verbatim.³

³ If Plaintiff would like copies of these discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the Pro Se Intake Unit.

CONCLUSION

The Clerk of Court is directed to mail an information package to Plaintiff. The Clerk of Court is further instructed to complete the USM-285 forms with the addresses for Defendants E. Torres and K. Lamb, and deliver all documents necessary to effect service to the U.S. Marshals Service.

SO ORDERED.

Dated: February 8, 2023
White Plains, New York

A handwritten signature in black ink, reading "Cathy Seibel", is written over a horizontal line.

CATHY SEIBEL
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Corrections Officer E. Torres
Sing Sing Correctional Facility
354 Hunter Street
Ossining, N.Y. 10562
2. Corrections Officer K. Lamb
Sing Sing Correctional Facility
354 Hunter Street
Ossining, N.Y. 10562